



U.S. Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street NW  
Washington, DC 20005

October 25, 2023

**VIA ECF**

Hon. Renée Marie Bumb  
Chief Judge  
United States District Court for the District of New Jersey  
Mitchell H. Cohen Building & U.S. Courthouse  
4th & Cooper Streets  
Room 1050  
Camden, NJ 08101

Re: *Novo Nordisk Inc. v. Becerra*, No. 3:23-cv-20814-GC-JBD

Dear Chief Judge Bumb:

Defendants in the above-captioned matter respectfully request that this case be reassigned to Judge Quraishi under Local Rule 40.1(d).

Judge Quraishi is currently presiding over three earlier-filed cases that present facial constitutional challenges to the Medicare Drug Price Negotiation Program, which was created by the Inflation Reduction Act of 2022. *See Bristol Myers Squibb Company v. Becerra*, No. 23-cv-3335-ZNQ-JBD; *Janssen Pharmaceuticals, Inc. v. Becerra*, No. 23-cv-3818-ZNQ-JBD; *Novartis Pharmaceuticals Corporation v. Becerra*, No. 23-cv-14221-ZNQ-DEA. Like those earlier-filed cases, this case also presents facial constitutional challenges to that same statutory program. That is sufficient to justify reassignment of this case to Judge Quraishi under Local Rule 40.1(c)-(e).

Plaintiffs in the second- and third-filed cases—*Janssen* and *Novartis*—each noted in the civil cover sheet attached to their complaints that the earlier-filed cases were related. *See Janssen* ECF No. 1-1 (identifying *Bristol Myers Squibb* as a related case); *Novartis* ECF No. 1-2 (identifying both *Bristol Myers Squibb* and *Janssen* as related cases). In this case, under the heading “RELATED CASE(S) IF ANY,” Plaintiffs likewise identified those three cases in an addendum to their Civil Cover Sheet, though without explicitly acknowledging that their case should be assigned to Judge Quraishi. *See Novo Nordisk* ECF No. 1-2. Plaintiffs instead explained their view that “Novo Nordisk has pleaded different constitutional claims,” and also that “Novo Nordisk’s complaint alleges that the Centers for Medicare and Medicaid Services’ guidance and other final agency actions are unlawful and ultra vires,” in addition to their facial constitutional claims. *Id.* Defendants respectfully submit that those distinctions are insufficient to warrant separate assignment under Local Rule 40.1(c), which contemplates assignment of related cases “to the same Judge” “[w]henver possible.”

For these reasons, Defendants respectfully request that this case be reassigned to Judge Quraishi, so that it can be considered alongside the three earlier-filed cases in this district challenging the same statutory program. Before making this request, counsel for Defendants conferred with counsel for Plaintiffs, who asked Defendants to report their position as follows:

Plaintiffs take no position on this request. Plaintiffs believe that the Court is in the best position to decide whether a reassignment is appropriate and would allow for the fair and efficient resolution of the issues raised in Plaintiffs' complaint. As noted on the civil cover sheet, Plaintiffs do not believe that this case qualifies under Local Rule 40.1 as related to the other cases pending in this district that raise a variety of different claims challenging the constitutionality of the Inflation Reduction Act's drug pricing provisions. Unlike those other cases, this case focuses on claims challenging the actions taken by the Centers for Medicare & Medicaid Services as applied to Plaintiffs.

Although Plaintiffs insist that their case "focuses on" certain "actions taken" by the Centers for Medicare & Medicaid Services in implementing the Inflation Reduction Act, the first two of the four counts in their complaint are facial constitutional challenges to the statute itself—just like the claims in *Bristol Myers Squibb*, *Janssen*, and *Novartis*. That is enough to justify reassignment, regardless of the fact that Plaintiffs here also bring two additional non-constitutional challenges to the same program.

Dated: October 25, 2023

Respectfully submitted,

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